

APPEAL NO. 020512
FILED APRIL 22, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 13, 2002. With respect to the issues before him, the hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and that she had disability from July 26, 2001, to January 11, 2002. In its appeal, the appellant (carrier) argues that the hearing officer's disability determination is against the great weight of the evidence. In her response, the claimant urges affirmance of the period of disability found by the hearing officer but also contends that the hearing officer should have determined that the claimant had disability through the date of the hearing. The claimant's response was not timely received to serve as an appeal; thus, the issue of whether the claimant's disability extended beyond January 11, 2002, is not before us on appeal. The carrier did not appeal the determination that the claimant sustained a compensable injury and, as a result, that determination has become final pursuant to Section 410.169.

DECISION

Affirmed.

The issue of whether the claimant had disability as a result of her compensable injury was a question of fact for the hearing officer. The hearing officer is the sole judge of the relevance and materiality of the evidence and of its weight and credibility. Section 410.165(a). The hearing officer resolves conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). Generally, injury and disability may be proven by the testimony of the claimant alone, if it is believed by the hearing officer. Gee v. Liberty Mut. Fire Ins. Co., 765 S.W.2d 394 (Tex. 1989). When reviewing a hearing officer's decision, we will reverse such decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986).

The carrier contends that the hearing officer's determination that the claimant had disability from July 26, 2001, to January 11, 2002, is against the great weight of the evidence. In so arguing, the carrier emphasizes the same factors on appeal as it emphasized at the hearing. The significance, if any, of those factors was a matter left to the hearing officer in determining whether the claimant had sustained her burden of proving disability. The hearing officer resolved the conflicts and inconsistencies in the evidence in favor of the claimant and he was acting within his province as the fact finder in so doing. Our review of the record does not demonstrate that the challenged determination is so contrary to the great weight of the evidence as to be clearly wrong or manifestly unjust. Therefore, no sound basis exists for us to reverse the disability determination on appeal. Cain; Pool.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL
ZURICH NORTH AMERICA
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Terri Kay Oliver
Appeals Judge